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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/617,240	07/09/2003	Christopher Russell Byrne		2846

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EDWIN D. SCHINDLER  
FIVE HIRSCH AVENUE  
P.O. BOX 966  
CORAM, NY 11727-0966

EXAMINER

LAYNO, BENJAMIN

ART UNIT	PAPER NUMBER
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3711

MAIL DATE	DELIVERY MODE
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01/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/617,240

Applicant(s)

BYRNE, CHRISTOPHER  
RUSSELL

Examiner

Benjamin H. Layno

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 20-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. Applicant's arguments, filed 11/21/07, with respect to the rejection(s) of claim(s) 20-27 under 102(b) in view of Jones 553' have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of the new cited patent Jones et al. **973'**.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 20, 22, 24 and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Jones et al. **973'**.

The patent to Jones 973' discloses a method of playing a collateral wagering game, progressive jackpot component, in combination with a standard wagering game, underlying five-card stud poker game. A group of up to seven entrants or players may play the game, see the seven betting locations 12. Each player makes a wager 14 for participating in the standard wagering game, col. 7, lines 39-41. Each player exercising an option to make an additional wager 20 on an outcome of the standard wagering game, five-card stud poker. The additional wager 20 is optional, see abstract and see col. 3, lines 1-21. The outcome of each player's hand is determined in the standard wagering game, five-card stud poker. If the player achieves a winning outcome in the

standard wagering game, five-card stud poker, the player receiving a prize amount of one-to-one odd for the standard wagering game, col. 8, lines 26-29. A player may win the standard wagering game, underlying five-card stud poker game, without having to place said additional wager for participating in the collateral wagering game, see col. 3, lines 13-17 which recites "if the player places a wager in the bet box, but does not insert a token into the progressive jackpot coin acceptor, then the dealer assumes that the **player wishes to participate in a wager only for the underlying game**". If the player has made an additional wager for participating in the collateral wagering game, progressive jackpot component, a prize value is allocated to the collateral wagering game based upon the winning outcome in the standard wagering game. A total prize value is determined for the player in the collateral wagering game when the player has made the additional wager for participating in the collateral wagering game, see Table 7, col. 7, lines 21-33. Thus a winning player is paid the prize amount as determined in the standard wagering game, underlying five-card poker game, one-to-one odds, **and** the total prize value for the collateral wagering game, progressive jackpot component, the player is entitled to receive.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 21, 23, 25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al. **973'**.

In regard to the claimed "determining said total prize amount for said player by adding the prize amount won by said player in said standard wagering game to said prize value in said collateral wagering game multiplied by a number of winning shares owned by said player in the collateral wagering game", determining exactly total prize amount paid to the player in Jones et al. 973' game, (e.g. % amount of the Jackpot according to a predetermined hand, fixed amount according to a predetermined hand,, a multiple of the amount wagered by the player, etc.) is simply a casino business decision dependent of on the amount of profit and revenue the casino wishes to make.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin H. Layno whose telephone number is (571) 272-4424. The examiner can normally be reached on Monday-Friday, 1st Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on (571)272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Benjamin H. Layno  
Primary Examiner  
Art Unit 3711

bhl